

2013 DRAFTING REQUEST

Bill

Received:	1/22/2013	Received By:	pkahler
Wanted:	As time permits	Same as LRB:	
For:	Joel Kleefisch (608) 266-8551	By/Representing:	Rick Braun
May Contact:		Drafter:	pkahler
Subject:	Dom. Rel. - cust./plac./vis.	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Kleefisch@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Equalizing the amount of time that divorced parents spend with their children and standards for modifying custody or physical placement

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 1/23/2013	scalvin 2/5/2013	rschluet 2/5/2013	_____			
/P1	pkahler 2/27/2013			_____	srose 2/5/2013		
/1	pkahler 4/15/2013	scalvin 3/6/2013	jfrantze 3/6/2013	_____	mbarman 3/6/2013	lparisi 3/21/2013	
/2		jdyer	rschluet	_____	lparisi	lparisi	

Vers. Drafted

Reviewed
4/16/2013

Typed
4/16/2013

Proofed

Submitted
4/16/2013

Jacketed
4/16/2013

Required

FE Sent For:

<END>

Not
needed

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/1		scalvin 3/6/2013	jfrantze 3/6/2013	jm	mbarman 3/6/2013	lparisi 3/21/2013	

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/?	pkahler 1/23/2013	scalvin 2/5/2013	rschluet 2/5/2013	_____	_____		
/P1		/1 sac 03/06/2013	 3/4	_____	srose 2/5/2013		

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? pkahler

FE Sent For:

<END>

for AB 54 redraft

Existing

767.41 Custody and physical placement.

(4) ALLOCATION OF PHYSICAL PLACEMENT. (a) 1. Except as provided under par. (b), if the court orders sole or joint legal custody under sub. (2), the court shall allocate periods of physical placement between the parties in accordance with this subsection.

2. In determining the allocation of periods of physical placement, the court shall consider each case on the basis of the factors in sub. (5) (am), subject to sub. (5) (bm). The court shall set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into account geographic separation and accommodations for different households.

Changes -That would look like:

(4) ALLOCATION OF PHYSICAL PLACEMENT. (a) 1. Except as provided under par. (b), if the court orders sole or joint legal custody under sub. (2), the court shall allocate periods of physical placement between the parties in accordance with this subsection.

2. In determining the allocation of periods of physical placement, the court shall consider each case on the basis of the factors in sub. (5) (am), subject to sub. (5) (bm). The court shall set a placement schedule that **equalizes the amount of time the child may spend with each parent** and that allows the child to have regularly occurring, meaningful periods of physical placement with each parent, taking into account geographic separation and accommodations for different households.

per Rick Brown: redraft 2011 AB 54 w/ the change

< noted above.



State of Wisconsin
~~2011-2012~~ LEGISLATURE
2013 - 2014



LRB-00111
PJK:ag-ph

127 1/2
p1

2013 ←

2011 ASSEMBLY BILL 54

sac

March 21, 2011 - Introduced by Representatives PRIDEMORE, MURSAU, VOS, KLEEFISCH, HONADEL and ZIEGELBAUER, cosponsored by Senators LASEE and LAZICH. Referred to Committee on Children and Families.

(in 1-23)
D-note
regenerate

1 AN ACT *to repeal* 767.451 (1) (b) 3.; *to amend* 767.41 (4) (a) 2., 767.41 (6) (a) and
2 767.451 (1) (b) 2. (intro.); *to repeal and recreate* 767.451 (1) (b) 2. a. and
3 767.451 (1) (b) 2. b.; and *to create* 767.41 (5) (am) 5m. of the statutes; **relating**
4 **to:** equalizing physical placement to the highest degree, requiring the court to
5 state the reasons for ordering sole legal custody or not equalizing physical
6 placement, and standards for modifying legal custody or physical placement.

Analysis by the Legislative Reference Bureau

Under current law, in an action affecting the family, such as a divorce or a paternity action, a court must determine the legal custody of a minor child based on the best interest of the child. In current law, there is a presumption that joint legal custody is in the child's best interest. The court also must allocate periods of physical placement between the parties. The court is required to set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into consideration geographic separation and accommodations for different households. The court may deny periods of physical placement with a parent only if the court finds that the physical placement would endanger the child's physical, mental, or emotional health. When determining custody and periods of physical placement, the court is required, under current law, to consider a number of factors (custody and placement factors), such as the wishes

ASSEMBLY BILL 54

of the child and of the parties, the interaction and interrelationship of the child with his or her parents, the amount and quality of time that each party has spent with the child in the past, the child's adjustment to the home, school, and community, and the cooperation and communication between the parties.

Insert A-1 This bill provides that, when the court allocates periods of physical placement, instead of maximizing the amount of time a child may spend with each parent, taking into consideration geographic separation and accommodations for different households, the court must presume that a placement schedule that equalizes to the highest degree the amount of time the child may spend with each parent is in the child's best interest. This presumption may be rebutted if the court finds by clear and convincing evidence, after considering the custody and placement factors, that equalizing physical placement would not be in the child's best interest. The bill also makes the geographic separation of the parties an additional custody and placement factor for the court to consider in every case when determining custody and periods of physical placement. *Insert A-2*

Under current law, if legal custody or physical placement is contested, the court must state in writing why its findings relating to legal custody or physical placement are in the best interest of the child. Under the bill, if legal custody or physical placement is contested and the court orders sole legal custody or a placement schedule that does not equalize placement between the parties to the highest degree, the court must state both orally and in writing the reasons for its order.

Under current law, after two years after making an initial order of legal custody or physical placement, a court may revise legal custody or physical placement in a manner that substantially alters the time a parent may spend with his or her child if the court finds that the modification is in the best interest of the child and that there has been a substantial change in circumstances since the last order was made. There is a rebuttable presumption that continuing the current allocation of decision making concerning the child and continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child, and a change in the economic circumstances or marital status of a party is not sufficient to meet the standard for modification. The bill changes the rebuttable presumption that applies to modifications after two years after an initial order of legal custody or physical placement. Under the bill, there is a rebuttable presumption that the standard for modification is met, that is, that modification is in the best interest of the child and that there has been a substantial change in circumstances since the last order was made, if either of the following has occurred: 1) a parent has modified his or her lifestyle or the location of his or her residence to an extent that affects the amount of time the parent is able to care for the child; or 2) a parent has successfully completed parenting classes, a drug or alcohol abuse treatment program, or an anger management program to address a problem that previously hindered his or her ability to care for the child. In addition, the bill deletes the provision that makes a change in the economic circumstances or marital status of a party insufficient to meet the standard for modification. The effect of this change is to make a change in economic circumstances or marital status

ASSEMBLY BILL 54

possibly, depending on the circumstances, but not automatically, sufficient to meet the standard for modification.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 767.41 (4) (a) 2. of the statutes is amended to read:

767.41 (4) (a) 2. In determining the allocation of periods of physical placement, the court shall ~~consider each case on the basis of the factors in sub. (5) (am), subject to sub. (5) (bm).~~ The court shall set presume that a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes equalizes to the highest degree the amount of time the child may spend with each parent, taking into account geographic separation and accommodations for different households is in the best interest of the child. The presumption under this subdivision is rebutted if the court finds by clear and convincing evidence, after considering all of the factors in sub. (5) (am), subject to sub. (5) (bm), that equalizing physical placement to the highest degree would not be in the child's best interest.

SECTION 2. 767.41^x (5) (am) 5m. of the statutes is created to read:

767.41 (5) (am) 5m. The geographic separation of the parties.

SECTION 3. 767.41^x (6) (a) of the statutes is amended to read:

767.41 (6) (a) If legal custody or physical placement is contested and the court orders sole legal custody or a placement schedule that does not equalize physical placement between the parties to the highest degree, the court shall state orally and in writing why its findings relating to legal custody or physical placement are in the best interest of the child the reasons for its order.

SECTION 4. 767.451[✓] (1) (b) 2. (intro.) of the statutes is amended to read:

Insert 3-12

ASSEMBLY BILL 54

767.451 (1) (b) 2. (intro.) ~~With respect to subd. 1., there~~ There is a rebuttable presumption that any of the following is sufficient to meet the standards for modification under subd. 1.:

SECTION 5. 767.451 (1)(b) 2. a. of the statutes is repealed and recreated to read:

767.451 (1) (b) 2. a. A parent modifying his or her lifestyle or the location of his or her residence to an extent that affects the amount of time the parent is able to care for the child.

SECTION 6. 767.451 (1) (b) 2. b. of the statutes is repealed and recreated to read:

767.451 (1) (b) 2. b. A parent having successfully completed parenting classes, a drug or alcohol abuse treatment program, or an anger management program to address a problem that previously hindered the parent's ability to care for the child.

SECTION 7. 767.451 (1) (b) 3. of the statutes is repealed.

SECTION 8. Initial applicability.

(1) This act first applies to actions or proceedings, including actions or proceedings to modify a judgment or order previously granted, that are commenced on the effective date of this subsection.

(END)

D-into

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1271/ins ^{PI}
PJK:.....

INSERT A-1

^{not} allowing regularly occurring, meaningful periods of physical placement with each parent and

(END OF INSERT A-1)

INSERT A-2

^{not} and that allows regularly occurring, meaningful periods of physical placement with each parent, taking into consideration geographic separation and accommodations for different households

(END OF INSERT A-2)

INSERT 3-12

x

- 1 **SECTION 1.** 767.41 (4) (a) 2. of the statutes is amended to read:
- 2 767.41 (4) (a) 2. In determining the allocation of periods of physical placement,
- 3 the court shall consider each case on the basis of the factors in sub. (5) (am), subject
- 4 to sub. (5) (bm). The court shall set a placement schedule that equalizes the amount
- 5 of time the child may spend with each parent and that allows the child to have
- 6 regularly occurring, meaningful periods of physical placement with each parent ~~and~~
- 7 ~~that maximizes the amount of time the child may spend with each parent,~~ taking into
- 8 account geographic separation and accommodations for different households.

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9; 2001 a. 109; 2003 a. 130; 2005 a. 101, 174, 264; 2005 a. 443 ss. 29, 94 to 98; Stats. 2005 s. 767.41; 2005 a. 471 ss. 1 to 5; 2007 a. 20; 2007 a. 96 ss. 141, 142; 2007 a. 97, 187; 2009 a. 28, 79.

(END OF INSERT 3-12)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

- date -

LRB-12717^{P1}dn

PJK:.....

Sac

under s. 767.41 (4)(a)

Under s. 767.41 (4) (b) in current law, a child is entitled to physical placement with both parents unless the court finds that physical placement with a parent would endanger the child's physical, mental, or emotional health. In other words, the court has discretion about how to divide up physical placement time, but may deny a parent periods of physical placement altogether if physical placement with that parent would endanger the child's physical, mental, or emotional health. Under this draft, s. 767.41 (4) (a) and (b) are set up so that the court must either equalize physical placement or deny it altogether, since, if it is *not* denied under par. (b), it must be equalized under par. (a); there is no middle ground. Is this what you want?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1271/P1dn
PJK:sac:rs

February 5, 2013

Under s. 767.41 (4) (b) in current law, a child is entitled to physical placement with both parents unless the court finds that physical placement with a parent would endanger the child's physical, mental, or emotional health. In other words, the court has discretion about how to divide up physical placement time under s. 767.41 (4) (a), but may deny a parent periods of physical placement altogether if physical placement with that parent would endanger the child's physical, mental, or emotional health. Under this draft, s. 767.41 (4) (a) and (b) are set up so that the court must either equalize physical placement or deny it altogether, since, if it is *not* denied under par. (b), it must be equalized under par. (a); there is no middle ground. Is this what you want?

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Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1271/P
PJK:sac:rg

rm is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 Bill

(in 2-27)

regenerate ↓

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2 767.451 (1) (b) 2. (intro.); *to repeal and recreate* 767.451 (1) (b) 2. a. and
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4 **to: equalizing physical placement, requiring the court to state the reasons for**
5 **ordering sole legal custody or not equalizing physical placement, and standards**
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Analysis by the Legislative Reference Bureau

Under current law, in an action affecting the family, such as a divorce or a paternity action, a court must determine the legal custody of a minor child based on the best interest of the child. In current law, there is a presumption that joint legal custody is in the child's best interest. The court also must allocate periods of physical placement between the parties. The court is required to set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into consideration geographic separation and accommodations for different households. The court may deny periods of physical placement with a parent only if the court finds that the physical placement would endanger the child's physical, mental, or emotional health. When determining custody and periods of physical placement, the court is required, under current law, to consider a number of factors (custody and placement factors), such as the wishes

of the child and of the parties, the interaction and interrelationship of the child with his or her parents, the amount and quality of time that each party has spent with the child in the past, the child's adjustment to the home, school, and community, and the cooperation and communication between the parties.

This bill provides that, when the court allocates periods of physical placement, instead of allowing regularly occurring, meaningful periods of physical placement with each parent and maximizing the amount of time a child may spend with each parent, taking into consideration geographic separation and accommodations for different households, the court must set a placement schedule that equalizes the amount of time the child may spend with each parent and that allows regularly occurring, meaningful periods of physical placement with each parent, taking into consideration geographic separation and accommodations for different households.

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1 **SECTION 1.** 767.41 (4) (a) 2. of the statutes is amended to read:

2 767.41 (4) (a) 2. In determining the allocation of periods of physical placement,
3 the court shall consider each case on the basis of the factors in sub. (5) (am), subject
4 to sub. (5) (bm). The court shall set a placement schedule that equalizes the amount
5 of time the child may spend with each parent and that allows the child to have
6 regularly occurring, meaningful periods of physical placement with each parent ~~and~~
7 ~~that maximizes the amount of time the child may spend with each parent, taking into~~
8 account geographic separation and accommodations for different households.

9 ~~**SECTION 2.** 767.41 (5) (am) 5m. of the statutes is created to read:~~

10 ~~767.41 (5) (am) 5m. The geographic separation of the parties.~~

11 ~~**SECTION 3.** 767.41 (6) (a) of the statutes is amended to read:~~

12 ~~767.41 (6) (a) If legal custody or physical placement is contested and the court~~
13 ~~orders sole legal custody or a placement schedule that does not equalize physical~~
14 ~~placement between the parties, the court shall state orally and in writing why its~~
15 ~~findings relating to legal custody or physical placement are in the best interest of the~~
16 ~~child the reasons for its order.~~

17 **SECTION 4.** 767.451 (1) (b) 2. (intro.) of the statutes is amended to read:

18 767.451 (1) (b) 2. (intro.) ~~With respect to subd. 1., there~~ There is a rebuttable
19 presumption that any of the following is sufficient to meet the standards for
20 modification under subd. 1.:

21 **SECTION 5.** 767.451 (1) (b) 2. a. of the statutes is repealed and recreated to read:

1 767.451 (1) (b) 2. a. A parent modifying his or her lifestyle or the location of his
2 or her residence to an extent that affects the amount of time the parent is able to care
3 for the child.

4 **SECTION 6.** 767.451 (1) (b) 2. b. of the statutes is repealed and recreated to read:

5 767.451 (1) (b) 2. b. A parent having successfully completed parenting classes,
6 a drug or alcohol abuse treatment program, or an anger management program to
7 address a problem that previously hindered the parent's ability to care for the child.

8 **SECTION 7.** 767.451 (1) (b) 3. of the statutes is repealed.

9 **SECTION 8. Initial applicability.**

10 (1) This act first applies to actions or proceedings, including actions or
11 proceedings to modify a judgment or order previously granted, that are commenced
12 on the effective date of this subsection.

13 (END)

Parisi, Lori

From: Hanaman, Cathlene
Sent: Thursday, March 21, 2013 4:15 PM
To: Kahler, Pam; Shea, Elisabeth; Kite, Robin; Parisi, Lori; Barman, Mike; Rose, Stefanie; Basford, Sarah
Subject: Jacketing requests

PAs:

Ashlee in the Kleefisch office requests that the following drafts be jacketed. If the draft is a /p draft, I've cc'ed the attorney so the attorney can redraft the draft to an introducible version. Thanks.

LRB 0583/P1: Premarital agreement at divorce	PJK
LRB 0619/1: Elections, polling place registration	
LRB 0684/P1: Back Tag Requirements for hunting	EHS
LRB 0713/P1: Internet registration for Deer	RNK
LRB 1271/1: Child Custody Placement	
LRB 1684/1: Employment discrimination based on conviction records	
LRB 1689/1: Funeral Establishments and Cemeteries	
LRB 1742/1: Theft of telecommunication services	

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Ashley by phone 4-15-13

wanted a bill that created a presumption
for equal placement,
not a mandated equalizing -

See 2011 AB 54 (LRB-0611/1)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1271/3

PJK:sac

2
r mis run jld

2013 BILL

SOON
(in 4-5)

Regulate
↓

✓ a presumption
that

- ① AN ACT to amend 767.41 (4) (a) 2. of the statutes; relating to: equalizing
② physical placement. → to the highest degree is in a
child's best interest

Analysis by the Legislative Reference Bureau

Insert A ✓

Under current law, in an action affecting the family, such as a divorce or a paternity action, a court must determine the legal custody of a minor child and allocate periods of physical placement between the parties. The court is required to set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into consideration geographic separation and accommodations for different households. The court may deny periods of physical placement with a parent only if the court finds that the physical placement would endanger the child's physical, mental, or emotional health. When determining custody and periods of physical placement, the court is required, under current law, to consider a number of factors (custody and placement factors), such as the wishes of the child and of the parties, the interaction and interrelationship of the child with his or her parents, the amount and quality of time that each party has spent with the child in the past, the child's adjustment to the home, school, and community, and the cooperation and communication between the parties.

Insert B ✓

This bill provides that, when the court allocates periods of physical placement, instead of allowing regularly occurring, meaningful periods of physical placement with each parent and maximizing the amount of time a child may spend with each parent, taking into consideration geographic separation and accommodations for

BILL

different households, the court must set a placement schedule that equalizes the amount of time the child may spend with each parent and that allows regularly occurring, meaningful periods of physical placement with each parent, taking into consideration geographic separation and accommodations for different households.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 767.41 (4) (a) 2. of the statutes is amended to read:

767.41 (4) (a) 2. In determining the allocation of periods of physical placement, the court shall consider each case on the basis of the factors in sub. (5) (am), subject to sub. (5) (bm). The court shall set a placement schedule that equalizes the amount of time the child may spend with each parent and that allows the child to have regularly occurring, meaningful periods of physical placement with each parent ~~and that maximizes the amount of time the child may spend with each parent, taking into~~ account geographic separation and accommodations for different households.

SECTION 2. Initial applicability.

(1) This act first applies to actions or proceedings, including actions or proceedings to modify a judgment or order previously granted, that are commenced on the effective date of this subsection.

(END)

✓
Insert 2-8



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0611/1
PJK:jld:ph

2011 ASSEMBLY BILL 54

March 21, 2011 - Introduced by Representatives PRIDEMORE, MURSAU, VOS, KLEEFISCH, HONADEL and ZIEGELBAUER, cosponsored by Senators LASEE and LAZICH. Referred to Committee on Children and Families.

1 **AN ACT to repeal** 767.451 (1) (b) 3.; **to amend** 767.41 (4) (a) 2., 767.41 (6) (a) and
2 767.451 (1) (b) 2. (intro.), **to repeal and recreate** 767.451 (1) (b) 2. a. and
3 767.451 (1) (b) 2. b.; and **to create** 767.41 (5) (am) 5m. of the statutes; **relating**
4 **to:** equalizing physical placement to the highest degree, requiring the court to
5 state the reasons for ordering sole legal custody or not equalizing physical
6 placement, and standards for modifying legal custody or physical placement.

Analysis by the Legislative Reference Bureau

§ Under current law, in an action affecting the family, such as a divorce or a paternity action, a court must determine the legal custody of a minor child based on the best interest of the child. In current law, there is a presumption that joint legal custody is in the child's best interest. The court also must allocate periods of physical placement between the parties. The court is required to set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into consideration geographic separation and accommodations for different households. The court may deny periods of physical placement with a parent only if the court finds that the physical placement would endanger the child's physical, mental, or emotional health. When determining custody and periods of physical placement, the court is required, under current law, to consider a number of factors (custody and placement factors), such as the wishes

ASSEMBLY BILL 54

~~of the child and of the parties, the interaction and interrelationship of the child with his or her parents, the amount and quality of time that each party has spent with the child in the past, the child's adjustment to the home, school, and community, and the cooperation and communication between the parties.~~

Insert B → ¶ This bill provides that, when the court allocates periods of physical placement, instead of maximizing the amount of time a child may spend with each parent, taking into consideration geographic separation and accommodations for different households, the court must presume that a placement schedule that equalizes to the highest degree the amount of time the child may spend with each parent is in the child's best interest. ✓ This presumption may be rebutted if the court finds by clear and convincing evidence, after considering the custody and placement factors, that equalizing physical placement would not be in the child's best interest. The bill also makes the geographic separation of the parties an additional custody and placement factor for the court to consider in every case when determining custody and periods of physical placement. ✓

~~Under current law, if legal custody or physical placement is contested, the court must state in writing why its findings relating to legal custody or physical placement are in the best interest of the child. Under the bill, if legal custody or physical placement is contested and the court orders sole legal custody or a placement schedule that does not equalize placement between the parties to the highest degree, the court must state both orally and in writing the reasons for its order.~~

~~Under current law, after two years after making an initial order of legal custody or physical placement, a court may revise legal custody or physical placement in a manner that substantially alters the time a parent may spend with his or her child if the court finds that the modification is in the best interest of the child and that there has been a substantial change in circumstances since the last order was made. There is a rebuttable presumption that continuing the current allocation of decision making concerning the child and continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child, and a change in the economic circumstances or marital status of a party is not sufficient to meet the standard for modification. The bill changes the rebuttable presumption that applies to modifications after two years after an initial order of legal custody or physical placement. Under the bill, there is a rebuttable presumption that the standard for modification is met, that is, that modification is in the best interest of the child and that there has been a substantial change in circumstances since the last order was made, if either of the following has occurred: 1) a parent has modified his or her lifestyle or the location of his or her residence to an extent that affects the amount of time the parent is able to care for the child; or 2) a parent has successfully completed parenting classes, a drug or alcohol abuse treatment program, or an anger management program to address a problem that previously hindered his or her ability to care for the child. In addition, the bill deletes the provision that makes a change in the economic circumstances or marital status of a party insufficient to meet the standard for modification. The effect of this change is to make a change in economic circumstances or marital status,~~

ASSEMBLY BILL 54

possibly, depending on the circumstances, but not automatically, sufficient to meet the standard for modification.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 767.41 (4) (a) 2. [✓] of the statutes is amended to read:

2 767.41 (4) (a) 2. In determining the allocation of periods of physical placement,
3 the court shall ~~consider each case on the basis of the factors in sub. (5) (am), subject~~
4 ~~to sub. (5) (bm).~~ The court shall set presume that a placement schedule that allows
5 ~~the child to have regularly occurring, meaningful periods of physical placement with~~
6 ~~each parent and that maximizes~~ equalizes to the highest degree the amount of time
7 the child may spend with each parent, ~~taking into account geographic separation and~~
8 ~~accommodations for different households~~ is in the best interest of the child. The
9 presumption under this subdivision is rebutted if the court finds by clear and
10 convincing evidence, after considering all of the factors in sub. (5) (am), subject to
11 sub. (5) (bm), that equalizing physical placement to the highest degree would not be
12 in the child's best interest.

13 **SECTION 2.** 767.41 (5) (am) 5m. [✓] of the statutes is created to read:

14 767.41 (5) (am) 5m. The geographic separation of the parties. [✓]

15 **SECTION 3.** 767.41 (6) (a) of the statutes is amended to read:

16 767.41 (6) (a) If legal custody or physical placement is contested and the court
17 orders sole legal custody or a placement schedule that does not equalize physical
18 placement between the parties to the highest degree, the court shall state orally and
19 in writing why its findings relating to legal custody or physical placement are in the
20 best interest of the child the reasons for its order.

21 **SECTION 4.** 767.451 (1) (b) 2. (intro.) of the statutes is amended to read:

Insert 2-8